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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

SUE LAMBERT PARKER,

Plaintiff,

vs.

UNITED STATES OF AMERICA,  
INDIAN HEALTH SERVICE, LAURIE A.  
GERHARD, and JOHN DOE 1-7,

Defendants.

Case No.

**COMPLAINT and DEMAND FOR TRIAL  
BY JURY**

Pursuant to Federal Rule of Civil Procedure 15(d), Plaintiff Sue Lambert Parker ("Plaintiff") files this Complaint, which pleads claims under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§1346, 2671 *et seq.*, against the United State of America. Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has subject matter jurisdiction over Plaintiff's FTCA claims under 28 U.S.C. §1331 and §1346(b).

2. The Court has personal jurisdiction over the United States of America.

3. Venue is proper in the Great Falls Division of the District of Montana pursuant to 28 U.S.C. §1391(e) and §1402(b) because the events which give rise to this action occurred within this

1 district and Plaintiff resides within this district.

2 **PARTIES**

3 4. Plaintiff Sue Lambert Parker is, and at all times relevant was, a citizen of Montana  
4 working and residing in Roosevelt County.

5 5. Defendant United States of America is sued for Plaintiff's personal injuries caused by  
6 the negligent or wrongful acts or omissions of its employees. Those employees were acting within  
7 the scope of their office or employment under circumstances where the United States, if a private  
8 person, would be liable to Plaintiff in accordance with the laws of the State of Montana. *See* 28  
9 U.S.C. § 1346(b).  
10

11 **FACTUAL ALLEGATIONS**

12 6. On or about September 29, 2009, Plaintiff was walking across the Poplar Indian  
13 Health Services parking lot in Poplar, Roosevelt County, Montana.

14 7. At the same time, Laurie Gerhard, an employee of Defendant, acting within the scope  
15 of her employment, failed to defrost the windshield of a green Chevrolet Venture van VIN No.  
16 U03E64D259370 owned by Defendant, before she drove it across the same parking lot.  
17

18 8. As a pedestrian Plaintiff had the right of way.

19 9. The Laurie Gerhard, failed to yield to Plaintiff's right of way, due to windshield of the  
20 van being obstructed.  
21

22 10. As a result of Laurie Gerhard's failure defrost the van's windshield, the van collided  
23 with Plaintiff.

24 11. As a result of the collision, Plaintiff sustained bodily injury.

25 12. Because of these injuries, Plaintiff has suffered pain, has incurred and will continue to  
26

1 incur expenses for medical treatment, has and will continue to lose income, and has and will  
2 continue to be deprived of her ability to engage in various activities for life. Plaintiff's total damages  
3 will be determined at trial.

4  
5 13. On December 22<sup>nd</sup>, 2009, Fitzgerald Law Firm, on behalf of the Plaintiff, filed an  
6 administrative claim under the Federal Tort Claims Act, comprised of a completed Standard Form 95  
7 and supporting materials, to the appropriate federal agencies, including the Department of Health and  
8 Human Services ("DPHHS"). *See*, Ex. A (Tort Claim). Plaintiff claimed \$2,000,000.00 in damages.  
9 Because the earliest tortuous action described in Plaintiff's administrative claim occurred on  
10 September 28<sup>th</sup>, 2009, her claim was timely filed. *See* 28 U.S.C.A. § 2401(b) (two year statute of  
11 limitations for filing of administrative tort claims).

12  
13 14. In a letter dated August 30<sup>th</sup>, 2012, over three years after the original complaint in this  
14 case was filed, DPHHS acknowledged the claim and responded with an offer of \$6,301.67. *See* Ex. B  
15 (DPHHS letter).

16 WHEREFORE, Plaintiff Demands judgment against the Defendant in an amount to be de-  
17 termined at trial, as well as costs of suit and any such further relief as the Court deems just.

18 **PLAINTIFF DEMANDS A TRIAL BY JURY**

19 DATED this 10 day of October, 2017.

20  
21 Helland Law Firm, PLLC

22 Attorneys for Plaintiff

23 

24 Peter L. Helland